

**GALLATIN COUNTY BOARD OF PARK COMMISSIONERS MEMORANDUM  
OF UNDERSTANDING AGREEMENT**

THIS MEMORANDUM OF UNDERSTANDING AGREEMENT ("Agreement" or "MOU"), made and entered into the 16<sup>th</sup> day of December, 2009 between GALLATIN COUNTY, 311 WEST MAIN of hereinafter called the "County" and GALLATIN VALLEY SKATE ASSOCIATION, hereinafter called "GVSA". Upon adequate consideration, the COUNTY and GVSA agree the terms and conditions of this agreement are as follows:

**1. SCOPE:** The COUNTY and GVSA agree to work together to design, promote and raise funding for the construction of a "Skate Park" to be generally located at the south east corner of the Gallatin County Regional Park, north along Davis Lane to the south boundary of the 911 Complex, west to the east edge of the stream and south to Oak Street designated as F on the Gallatin County Master Plan adopted November 2007, and attached hereto as Exhibit A, the "Premises".

The County recognizes GVSA as the designated entity that will be in charge of design, promotion, and fundraising for this particular skate park with the county. Any other entities or groups interested in the design, promotion or fundraising of a skate park will be directed to work through GVSA during the term of this agreement. GVSA will acknowledge and to the best of their abilities mitigate any concerns from other groups in the development of the skate park.

**2. COUNTY:** COUNTY has the right, power and authority to enter into this Agreement with GVSA and designates Michael Harris, Gallatin County Conservation and Parks Director, as the project manager and contact for the County.

**3. GVSA:** GVSA represents and warrants to COUNTY that it has the right, power and authority to enter into this Agreement, and designates Elwood Bakken, Board President as the contact for GVSA.

**4. Term:** This Agreement between the COUNTY and GVSA exists from, January 1, 2010 to December 31<sup>st</sup> 2012. The Agreement can be revoked upon reasonable notice from the either party.

**5. Design:** The purpose of this agreement is to recognize GVSA as the entity that will be responsible for preliminary design and fundraising, of one or multiple phases of a skate park at the Regional Park. Designs should address uses such as skateboards, bikes and rollerblades. Designs are not required to accommodate bicycles or rollerblades however should identify why those uses are in conflict with the skateboard design.

**6. Public Input:** Completed designs must be adopted at a public hearing by the Gallatin County Board of Park Commissioners.

**7. Uses:** GVSA agrees that the "Premises" shall be used and occupied only for the planning, design, engineering, organizing, and fundraising for a "Skate Park" and upon receiving permission from Parks Director.

**8. Construction:** This Agreement does not allow for the Construction of the Skate Park. Upon adoption of a design and demonstration of sufficient funding to complete construction Gallatin County will issue a License Agreement to GVSA for use of the Premises for construction of the Skate Park and all assets of the Skate Park will be gifted to Gallatin County upon completion of construction.

**9. Compliance:** Compliance with Laws: GVSA shall fully comply with all federal, state and local laws, statutes, resolutions and ordinances, as they relate to the "Premises" during the term of this Agreement.

**10. Indemnity:** To the extent allowable under law, GVSA shall hold harmless, indemnify and defend COUNTY and its agents, principals, and employees from and against any and all claims, demands, damages, costs, expenses, losses, liability (including liability where activity is inherently or intrinsically dangerous), judgments, defense expenses and attorney's fees rising out of or resulting from GVSA's wrongful acts, errors, omissions, or negligence, or from GVSA's failure to comply with the requirements of this Agreement or with all federal, state and local law applicable to the performance of this Agreement. In the event of an action filed against COUNTY resulting from GVSA's performance under this Agreement, COUNTY may elect to represent itself and incur all costs and expenses of suit.

**11. Time Is of the Essence.** The time of complying with this Agreement is of the essence and a violation is a material breach.

**12. Non-Waiver.** The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision.

**13. Entire Agreement.** This document represents the entire and integrated Agreement between the COUNTY and GVSA and supersedes all prior negotiations, agreements or representations, either written or oral. This Agreement may be amended only by written instrument signed by both parties. Any notice under this Agreement must be in writing and must be sent by personal delivery or certified mail to the address designated above. The parties shall inform each other of any change in address.

**14. Non-Assignment.** COUNTY and GVSA, respectively, bind themselves, their successors, assigns and legal representatives to the other party with respect to all covenants, terms, or conditions of this Agreement. Neither COUNTY nor GVSA shall assign his Agreement without the written consent of the other.

**15. Execution of Agreement.** The Gallatin County Clerk and Recorder will keep the original Agreement. An exact unaltered copy of the original Agreement has the same force and effect as the original. The COUNTYs and GVSA agree that this Agreement shall be governed and interpreted according to the laws of the State of Montana. In the event of a

dispute arising over this agreement, venue shall be in the Eighteenth Judicial District of the State of Montana, in and for the County of Gallatin. The attorney's fees and costs, including that of in-house counsel shall be paid to the prevailing party in the event of any litigation or other claim brought by either party herein.

No waiver of any breach of this Agreement will be held as a waiver of any other subsequent breach thereof. Any remedy provided herein will be taken and construed as cumulative.

AGREED as of the date set forth above by:

**COUNTY**

**GVSA**

Carol L. Collins  
Carol Collins, Chair

Elwood Bakken  
Elwood Bakken